

**PLANNING AND ZONING BOARD
FEBRUARY 9, 2000**

1. ROLL CALL

Present were Chair George Greb, Vice-Chair Michael Davenport, Lawrence Kuvn, John Pisula, and Jay Stahl. Also present were Suzanne McLean, representing Assistant Town Attorney Jon Hinden, Planning and Zoning Manager Jeff Katims, Planner Jason Eppy and Secretary Alina Medina recording the meeting.

2. PLATS

2.1 P 8-2-99, Griffin 78 Plat, 7790 Griffin Road (B-1) (tabled from January 26, 2000)

Mr. Eppy requested tabling this item to the February 23, 2000 meeting.

Mr. Pisula made a motion, seconded by Mr. Kuvn, tabling this item to February 23, 2000. In a voice vote, all voted in favor. **(Motion carried 5-0)**

2.2 P 12-2-99, ICE Plat II, located on the northwest corner of Flamingo Road and Orange Drive (A-1)

Mr. Eppy read the planning report (Planning and Zoning Division recommendation: approval).

Vice-Chair Davenport made a motion, seconded by Mr. Stahl, to approve subject to the planning report. In a voice vote, all voted in favor. **(Motion carried 5-0)**

3. PUBLIC HEARINGS

Rezoning

3.1 ZB 1-1-00, Synalovski Gutierrez Architects, Inc./Morris, Jaffe at 595, Inc., EDJ Enterprises, Inc., and Edjeslan Enterprises, Inc., 10220 Sate Road 84 (from A-1)

Mr. Eppy requested tabling this item to the February 23, 2000 meeting.

Mr. Stahl made a motion, seconded by Mr. Pisula, tabling this item to February 23, 2000. In a voice vote, all voted in favor. **(Motion carried 5-0)**

3.2 ZB 1-2-00, Fagundes/Value Dining of Davie/Hollywood Lincoln Mercury, 4184 to 4190 South University Drive (B-3 to B-2)

Jessie English, representing the petitioner, was present.

Mr. Eppy read the planning report (Planning and Zoning Division recommendation: approval).

Mr. Stahl questioned if the crossed out items that were on uses had been given to the Town in writing as voluntary restrictions. Mr. Eppy stated that the Town had been in contact with the petitioner's attorney and one item had been found that they did not want to include: the issue of mobile home sales and because of the intent to use staff had no complaint.

Manny Fagundes advised that the proposed use for the property would be for a Golden Corral.

Mr. Eppy questioned if the voluntary declaration of restrictions would replace the previous restrictions, or if other actions regarding the previous restrictions would be needed. Ms. McLean stated that since there were restrictions on record, a new document would be needed that amended those restrictions and the most current declaration was reviewed. She stated the need to have a specific reference to the prior declaration so the change was made clear and both restrictions would not show up in the title of property. Ms. McLean advised that rezoning was separate to the restrictions.

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Mr. Eppy asked how to relinquish the previous restrictions and if it could be done tonight. Ms. McLean advised that the rezoning would be subject to a declaration of restriction which would be a separate document recorded with the property, signed by the owner, and would run with the land regardless of the zoning. She added that it was not important to remove the old restrictions because there was a new owner and in the new declaration, reference would be made regarding the previous deed restrictions.

Chair Greb stated that since there was a legal document that dealt only allowed a car dealership, he believed that the existing deed restriction would have to be dealt with. His concern was that the current advertisement did not reflect an amendment to existing deed restrictions. Chair Greb added that there were two separate documents being changed. Mr. Fagundes stated that he was under the impression that by accepting the restrictions, he was accepting all of B-2 zoning on this property and the uses allowed, with the exception of those restricted by the community and staff. He added that by accepting those restrictions and changing the zoning, the recording of those restrictions would make the earlier restriction void. Chair Greb stated that this was not advertised to include the change in use of the property and it should be renoticed.

Mr. Kuvin made a motion, seconded by Mr. Pisula, to table until February 23, 2000. In a voice vote, all voted in favor. **(Motion carried 5-0)**

Variances

3.3 V 11-3-99, Glover/Andrx Corporation, 4955 Orange Drive (M-3)

Mr. Eppy read the planning report (Planning & Zoning Division: recommendation: approval subject to planning report)

Dick Coker, representing the applicant, stated that the mechanical equipment referred to was standard mechanical equipment, such as air handlers and air conditioners, usually found on the roof of an office building or warehouse. He indicated that Andrx was designed to accommodate a maximum of 450 employees in two shifts with no more than 300 at any one time on a single shift and from 10 to 15 visitors per day. This would create a need for a maximum of 315 parking spaces per day, representing a much lower demand than what the Code required.

Vice-Chair Davenport asked what was planned for the additional spaces in case they were eliminated. Mr. Coker stated that this was a wetlands mitigation area as indicated by staff.

Chair Greb stated that a variance ran with the land and asked what would happen should there be a new tenant in the future and the designated space on the second floor be used in a different way. Mr. Coker indicated that the declaration of restrictions required that the mechanical equipment area could not be used for anything other than air handlers and the only thing that could change would be the employee mix on the remaining floor space. He added that this building was unique for its purpose.

Chair Greb questioned why there needed to be space for air handlers and why they were not located on the roof. Mr. Coker stated that Andrx felt inside was more secure, not open to the elements. He stated that air conditioning was very important to the pharmaceutical manufacturing process.

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Mr. Eppy stated that the voluntary declaration of restriction ran with the property and if a new use came in, the restrictions would determine that its use not be given to office space. He indicated that if the restrictions needed to be amended at that time, this was another process that would come before the Board.

Chair Greb asked if anyone wished to speak in favor or in opposition of the petition. As no one spoke, the public hearing was closed.

Mr. Pisula made a motion, seconded by Mr. Stahl, to approve subject to the planning report. In a voice vote, all voted in favor. **(Motion carried 5-0)**

**3.4 V 1-1-00, Zimmerman/Falls Executive Centre, LLC & Roho - Flamingo Ltd.,
12401 Orange Drive (B-3)**

Mr. Eppy read the planning report (Planning and Zoning division recommendation: denial)

Howard Zimmerman, the petitioner, did not agree with comments staff had that no special conditions applied to the land, adding that there were conditions unique to the property. Mr. Zimmerman stated that the variance request for lot area and lot depth were not needed and the request for these two had been withdrawn. He displayed a site plan and stated that the western half of the parcel was owned by Falls Executive Centre and the eastern portion was owned by Roho-Flamingo Ltd. Mr. Zimmerman stated that when the site plan was submitted to staff, the locations of the buildings were set back 18 feet from the driveway. He advised that staff had said that the Code required the setbacks to be 25 feet; however, the Code required setbacks to be measured from the property line. Mr. Zimmerman advised that he did not agree that the buildings needed to be moved but understood staff's request and the intent of the Code. He indicated that moving the buildings would penalize the company and described the various modifications that could be made.

Mr. Pisula asked if the road could be moved to accommodate this plan. Mr. Zimmerman stated that moving the road would make the parcel smaller for the length of the lot.

Mr. Pisula suggested a rezoning to B-2 and asked if only these buildings would be affected or it would affect the whole parcel. Mr. Eppy stated that he was noting future developments which was part of the master plan and there was no issue of set back/separation because there was no use proposed as of this date.

Mr. Kuvin asked what would happen if this was not approved. Chair Greb indicated that the petitioner would have to redesign.

Mr. Zimmerman indicated that the area of lower parcels not yet designated covered approximately 2 acres and the lake was exactly 1.1 acres. He stated that the design of the park was created based on the petitioner's interpretation of the Code and restated his conviction that the setbacks should be measured from the property line not the driveway.

Mr. Eppy stated that the intent of providing parcel lines did not subdivide by plats but this measure indicated a provision for sale of portions of that property in the future so that the property could serve itself and would not depend on the adjacent park. Staff had called other cities to verify this practice and they agreed that the parcel line would function as a property line and because a right-of-way functioned as a property line. Mr. Zimmerman stated this was one parcel under one ownership. He stated that the reason the driveway provided access to the other parcel was because the Town had asked the petitioner to

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combine it with the other property. He added that the petitioner had complied but he was asking that they not be penalized as a result. Mr. Eppy stated that this plan did not function as a true planned development so the strict application of the Code was necessary. He indicated that what was proposed did meet the intent, but the variances had to be applied.

Mr. Kuvin asked if this variance could be granted even though there needed to be an application of the terms of the Code. Mr. Eppy replied that because of the strict criteria, staff felt that it should be denied, although the general intent of the plan met the criteria.

Mr. Zimmerman stated that the petitioner began the original design starting with a separation of property that met Code. The separation was created because staff had asked for the building to be moved back from the driveway.

Mr. Kuvin asked if the petitioner started with a clean slate, why setback requirements were not met. Mr. Zimmerman stated that the setback requirements allowed for 30 feet from the property line and this situation was not one that was created by the petitioner.

Chair Greb asked if anyone wished to speak in favor or in opposition of the petition. As no one spoke, the public hearing was closed.

Mr. Pisula stated that he understood staff's rationale and indicated that the road was there for the purpose. He added that the applicant was in accordance with the goal of trying to make a better property and questioned whether these structures would be compatible in a B-2.

Vice-Chair Davenport stated that if the applicant made a mistake in the design, then that was self-created, however, staff asking the petitioner to move the building did not make the situation self-created. He felt the variance was justified. Mr. Kuvin stated that the preference would be to have the buildings further away from the road, which the applicant had done. Vice-Chair Davenport stated that if staff asked the petitioner to move the building, the request for the variance should be granted. Mr. Eppy indicated that the intent of the road was to provide access to the other buildings.

Mr. Kuvin asked if there were any plans for the future development of the property near the road. Mr. Zimmerman stated that there was plan for a bank which did not materialize, so the same buildings may be located where the bank would have been. Mr. Kuvin asked if there was a plan to sell this property with Mr. Zimmerman responding in the negative.

Mr. Pisula made a motion, seconded by Mr. Stahl, to approve subject to the site separation dealing only with separation between buildings 2 and 3, 3 and 4, 7 and 8, and 8 and 9 and the petitioner withdrawing the portions of the variance with regard to area. In a voice vote, the vote was as follows: Chair Greb, no; Vice-Chair Davenport, yes; Mr. Kuvin, yes; Mr. Pisula, yes; Mr. Stahl, yes. **(Motion carried 4-1)**

Special Permits

3.5 SE 1-1-00, Margolis/Big Orange Development Ltd., 7911 Orange Drive (B-1)

Mr. Eppy read the planning report (Planning and Zoning division recommendation: approval).

Neal Kalis, representing the petitioner, stated that there was a tri-party agreement with respect to driveway access off Orange Drive for the purpose of this on-site office. He advised that this request tonight completed this process.

Mr. Eppy stated that he had spoken with the County and it had agreed that the use was compatible with their intentions for the property.

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Chair Greb asked if anyone wished to speak in favor or in opposition of the petition.

Bill Snyder, 4051 SW 100 Terrace, advised that he owned the law office adjacent to this property and had no objections to this being a real estate office, but would object to commercial construction vehicles being parked there. He asked what the access point to this property would be and stated that their legal access off of Orange Drive was west of his property, but he stated there was another access off of University that would probably be used. Mr. Snyder stated that there was a problem with the plat because it showed a stacking lane which ran across his property. He asked for the condition that the petitioner not use the access to the west of his property as the stacking lane did not really exist, indicating that this mistake in the plat would need to be resolved.

Mr. Kalis stated that the access to the building was on the driveway to the east of Mr. Snyder's property and advised that this was what prompted the tri-party agreement. He indicated that there was a no-vehicular access line that ran across the front and Mr. Margolis would not be using the access to the west of Mr. Snyder's property. Mr. Kalis added that this would need to be brought up at a later date for future access to the developed property.

Chair Greb closed the public hearing.

Vice-Chair Davenport asked if the access road had to be referenced in a denial. Ms. McLean advised that this was a voluntary stipulation to the special use permit and she advised that reference should be made to the specific access.

Mr. Kalis stated that permits allowed under the Code could result in a truck coming in from Orange Drive for the purpose of unloading or to do filling, but that would not involve a regular access. He made it clear that there was really no road work being done and stated that nothing would cross Mr. Snyder's property.

Mr. Snyder stated that he had no objection to the building being used as a real estate office and added that if the road on the west was going to be filled and created, it would need to be part of a development order.

Chair Greb agreed that they were only dealing with the use of the house and the access would be from the east.

Vice-Chair Davenport made a motion, seconded by Mr. Pisula, to approve subject to the voluntary stipulation that the access to the house would be on the east and that the permit would be limited to 12 months and the additional conditions on the planning report. In a voice vote, the vote was as follows: Chair Greb, yes; Vice-Chair Davenport, yes; Mr. Kuvin, yes; Mr. Pisula, yes; Mr. Stahl, yes. **(Motion carried 5-0)**

4. OLD BUSINESS

Mr. Eppy stated that in reference to the residence with a barn that had been discussed at the last meeting, staff discovered was activity within a courtyard area between the barn and the residence. He advised that it had not been determined if people were living there and he was looking into what legal action would be necessary to discover this.

Chair Greb asked if a legal complaint was necessary to have a legal action and suggested that a legal request from a judge would be required. Mr. Eppy was unsure.

5. NEW BUSINESS

Mr. Kuvin advised that he was resigning from the Board due to the fact that he no longer lived in Davie.

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Mr. Stahl spoke about the Publix complex by Muvico and stated that the signs were very large at the complex. Mr. Eppy stated that he would look into which city that portion of property belonged to. He added that he would check to be assured that the signs had been approved.

Chair Greb asked that if a sign erected on the property was for Muvico but was outside the Town limits, could the sign be regulated. Mr. Eppy stated that the Town had no authority to regulate property outside the municipal limits.

There being no further business, the meeting adjourned at 9:26 p.m.

Approved: _____

Chair/Board Member